Remarks

Claims 1-22 are pending.

Appreciation is expressed for the indication of allowability of claims 3, 5, 7-15, 17, 18, and 22. However, at this time the applicants choose to defer amendment of these claims until they have had the opportunity to traverse the Examiner's rejections.

Rejection of Claims under 35 U.S.C. § 103

Claims 1, 2, 4, 6, 16, and 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yim, U.S. Patent Application Publication No. 2003/0206527, and in view of Hluchyj et al., U.S. Patent No. 5,426,640. The applicants respectfully traverse these rejections.

Yim and Hluchyj taken alone or in combination neither teach nor suggest a method including:

> determining a shortest path to a destination node including identifying one of the first and second rings as being associated with the shortest path; and

> *in response to identifying one of the first and second rings as being associated with the shortest path to the destination node,* determining if the identified one of the first and second rings is more congested than the other of the first and second rings using the transit delay data; (emphasis added)

as required by independent claim 1, and generally required by independent claims 20 and 21.

Regarding the claimed "determining if the identified one of the first and second rings is more congested . . . ," the Examiner continues to refer to paragraph 0021 of Yim which states:

> [0021] The message processors may perform their selection on the basis of information obtained from a look-up table. The look-up table may contain information about the number of ring links along which a data message has to travel along each ring between the nodes to reach its destination so that the shortest route for the data message can be determined. The look-up table may also contain information about the data flow rate or traffic loading on each ring. Thus when one ring contains a lot of traffic and is congested, another ring may be selected. The look-up table is preferably dynamically updated for each new data

message to be sent. For this purpose, counting means may be provided for counting the number of messages queued for transmission at a node or nodes of the system.

Thus, the cited portion of Yim discloses using ring link information to determine a shortest route for ring selection, and also discloses using ring congestion information for ring selection. However, Yim neither teaches nor suggests first identifying a ring based on a shortest path, and then determining if *the identified ring* is more congested than another ring. The cited portion of Yim simply discloses both types of analysis, but not use of the analysis together, and particularly not use together in accordance with the applicants' claims.

In the Examiner's Response to Arguments section of the Office Action of June 1, 2006, the Examiner states:

> In reply, the examiner believes that Yim discloses these two related operations by identifying one ring based on a shortest path by using a look-up table (paragraph [0021], lines 6-7), and then selecting another ring to route a packet, if the one ring that has been identified as a shortest route is congested, by performing fault detection on a ring (paragraph [0025], lines 5-8).

The applicants respectfully disagree. Paragraph 0025 of Yim teaches nothing about selecting another ring if a previously selected ring is more *congested*. Paragraph 0025 states:

> [0025] The method and system of the present invention may include means for performing maintenance functions, such as fault detection means for detecting when faults occurs in the transmission rings. In accordance with a preferred feature of the invention, when a fault is detected in one of the transmission rings, the system is arranged to transmit data messages only on the ring or rings not affected by the fault. This is in contrast to prior art techniques in which data messages are looped back at a node by a physical correction and directed onto an unaffected ring.

Thus, paragraph 0025 merely discusses very general fault detection and response. Nothing in the cited portion of Yim teaches or suggests (1) determining if an identified ring is more congested than another ring, or (2) doing this in response to identifying a ring as being associated with the shortest path to the destination node. In fact, the cited portion of Yim makes no mention of ring congestion, but rather focuses on faults in

transmission rings. Ring congestion is not the same as a ring fault. Moreover, if it is the Examiner's position that they are one in the same, this position is contrary to the Examiner's other arguments (e.g., reference to paragraph 0021 of Yim) regarding the claimed congestion determination.

Accordingly, the applicants respectfully submit that independent claims 1, 20, and 21 are allowable over Yim and Hluchyj taken alone or in combination. Claims 2-19 depend from claim 1 and are allowable for at least this reason. Claim 22 depends from claim 20 and is allowable for at least this reason.
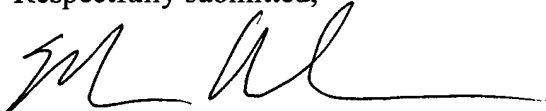
In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, on _____Sept 1_____, 2006.

_____ ___9/1/06___
Attorney for Applicant(s)   Date of Signature

Respectfully submitted,

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